



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII
726 MINNESOTA AVENUE
KANSAS CITY, KANSAS 66101

6 OCT 1994

ENFORCEMENT SENSITIVE

MEMORANDUM

SUBJECT: Supplemental Environmental Project Nexus Approval;
Modification of RCRA § 3008(a) Consent Agreement
The Knapheide Mfg. Co.
Docket No. VII-92-H-0008

FROM: Robert W. Richards
Assistant Regional Counsel

TO: Dwight Poffenberger
Office of Regulatory Enforcement

This memorandum clarifies and amplifies on an earlier memorandum on the same subject dated August 11, 1994.

This memorandum requests your approval of the horizontal nexus Supplemental Environmental Projects (SEP) pursuant to EPA's February 12, 1991 "Policy on the Use of Supplemental Enforcement Projects in EPA Settlement Agreements." The case originated as a RCRA Section 3008(a) Complaint (attachment 1 to August 11, 1994 memorandum) against The Knapheide Mfg, Co. for its West Quincy, Missouri facility. The original CACO was a multi-media settlement of the original RCRA and an EPCRA complaint filed at the time of settlement. The EPA and Knapheide entered into a Consent Agreement and Consent Order (CACO) (attachment 2 to August 11, 1994 memorandum) which contained vertical nexus SEPs.

The flood of 1993 inundated the Respondent's West Quincy, Missouri facility to a depth of eight feet. The destruction to the Respondent's facility was the subject of several national television news spots. As a result of the devastation, the Respondent ceased operations at the Missouri facility, where certain Supplemental Environmental Projects (SEPs) were to have been performed pursuant to the original CACO.

Since the flood the company moved its Missouri operations to a temporary facility in Quincy, Illinois. Additionally, the company is planning on moving into a new permanent facility in Quincy, Illinois, in 1995 or 1996. The flood destruction has made it impossible to perform the originally contemplated SEPs at the Missouri facility. However, the relocation to Illinois



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presents the opportunity to accomplish many of the goals of the original SEPs under a modified CACO. The modification continues EPA's Regional efforts to provide relief from the adverse impacts of the Great Flood of 1993.

In the original CACO, the SEPs were to be performed only at the Missouri facility, and dealt with the paint waste stream media that led to the RCRA violations at the Missouri facility. As such, the geographic nexus was vertical and the media nexus was vertical for the SEPs under the original CACO.

The SEPs that are the subject of this memorandum are contained in a proposed First Modification (attachment 3 to August 11, 1994 memorandum) to the previously filed CACO. Under the modification, the locations of SEPs were changed and additional SEPs identified as part of the flood rescue efforts. The following describes the five SEPs in the modification with respect to: the activities that are required under the SEPs, the category or categories in which the SEPs fall under the SEP guidance, and discussion of their respective nexus characteristics in terms of geography and media.

1. Activities: (Item 2.a. of modification) Examination of flood damage, product storage tank removal from old facility in West Quincy, Missouri which was closed due to the flooding.

Category of SEP: This is primarily an environmental restoration project since these product tanks were damaged in the flood and may have released product into the environment. The examination of the area could also be considered a type of environmental audit.

Nexus: Geographically, the nexus is vertical nexus since it is to be performed at the location of the violations. However, with respect the media, this has a horizontal nexus since it concerns a product storage tank and not the paint waste stream that was the subject of the violations.

2. Activities: (Item 2.b. of modification) Efforts to prevent/minimize flood damage on-site and off-site at West Quincy, Missouri site.

Category of SEP: The Respondent's participation in helping its neighbors move hazardous materials out of the flood area is considered a pollution prevention activity. All hazardous materials moved off the flood plain prior to the flood were actually or potentially prevented from being released into the Mississippi River. This had a definite environmental benefit since the EPA spend considerable resources itself retrieving and securing containers that were sent floating down the river because of the flood.

Nexus: Geographically, the nexus has a minimal horizontal characteristic, since it includes off-site work in the immediate area surrounding the facility. With respect to media, it shares both horizontal and vertical nexus, since some of the moved materials likely were regulated under RCRA and some likely were not regulated under RCRA but still posed risks to the environment unless moved from the flood area.

3. Activities: (Item 2.c. of modification) Installation of waste minimization or pollution prevention equipment as a part of the painting process at the temporary factory in Quincy, Illinois.

Category of SEP: This will be either a pollution prevention or pollution reduction project, depending on the content of the submittal.

Nexus: Geographically, the nexus is horizontal, since it is being performed at a facility other than the violating facility. With respect to media, the nexus is vertical, since the installation of equipment involves the painting process and the violation media was the paint waste stream.

4. Activities: (Item 2.d. of modification) Examination of alternate technology to reduce discharges from the painting process. The Respondent is considering different paint technologies to reduce releases from the painting process.

Category of SEP: This will be a pollution reduction or waste minimization project.

Nexus: Geographically, the nexus is horizontal, since it is being performed at a facility other than the violating facility. With respect to media, the nexus is vertical, since the examination of alternate technology involves the painting process and the violation media was the paint waste stream.

5. Activities: (Items 3-6 of modification) Submit an SEP Investigation Plan for the Quincy, Illinois facilities. Upon approval of the Plan the Respondent will conduct the investigation and present a report discussing the current environmental compliance status and waste stream identification. The report will also identify additional SEPs for EPA approval.

Category of SEP: This is an environmental audit. It will also generate additional SEPs pursuant to the original CACO provisions which will be required to be consistent with the SEP guidance, and which EPA expects to be either pollution prevention or waste minimization activities.

Nexus: Geographically, the nexus is horizontal, since it is being performed at facilities other than the violating facility. With respect to media, the nexus is vertical, since the audit involves waste streams and the violations included RCRA waste streams. Any SEPs generated as a product of the audit will be required to meet all categorical and nexus requirements of the EPA's SEP guidance.

Further, since Illinois is not in Region 7, pursuant to the EPA's SEP guidance, this memorandum certifies that the modification was been coordinated and approved by Region 5 (attachment 4 to the August 11, 1994 memorandum).

Finally, this memorandum requests your prompt attention in order to get the SEPs up and running and for EPA to continue to provide timely relief to victims of the Great Flood of 1993. If you have any questions concerning this matter, please contact either Bob Richards, ORC, at (913) 551-7502 or Ruben McCullers, RCRA, at (913) 551-7455.

(Attachments with August 11, 1994 memorandum)